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PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Richard W. Foote et al.
Serial No.: 10/777,012
Filed: February 11, 2004
For: SEMICONDUCTOR APPARATUS COMPRISING
BIPOLAR TRANSISTORS AND METAL OXIDE
SEMICONDUCTOR TRANSISTORS (AS AMENDED)
Group No.: 2891
Examiner: Steven J. Fulk
Confirmation No.: 3404

MAIL STOP ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
DETERMINATION UNDER 37 C.F.R. § 1.705(b)

The Applicant respectfully requests that the Office reconsider the patent term adjustment determination for the above-identified patent application. In support, the Applicant submits the following:

1. In the Notice of Allowance dated December 2, 2009, the patent term adjustment was determined to be 88 days. The Applicant believes this determination to be in error.
2. The Applicant believes the correct patent term adjustment should be calculated as 425 days.
3. This patent application was filed on February 11, 2004.

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4. The first Office Action was mailed on August 2, 2005. The first Office Action was therefore issued 113 days after fourteen months from the filing date (+113 days).

5. The Applicant's response to the September 23, 2005 Office Action was received on December 27, 2005, resulting in a deduction of 4 days (-4 days).

6. The Applicant's response to the July 18, 2006 Office Action was received on October 23, 2006, resulting in a deduction of 5 days (-5 days).

7. The Applicant's response to the January 10, 2007 Office Action was received on April 13, 2007, resulting in a deduction of 3 days (-3 days).

8. The Applicant's response to the September 25, 2007 Office Action was received on December 26, 2007, resulting in a deduction of 1 days (-1 day).

9. The Applicant's response to the April 1, 2008 Office Action was received on July 7, 2008, resulting in a deduction of 6 days (-6 days).

10. The Applicant's response to the August 1, 2008 Office Action was received on November 3, 2008, resulting in a deduction of 2 days (-2 days).

11. The Applicant's response to the February 18, 2009 Office Action was received on May 22, 2009, resulting in a deduction of 4 days (-4 days).

12. The three-year mark after filing is February 11, 2007. A request for continued examination was filed on July 7, 2008. As a result, the Applicant is entitled to a maximum additional adjustment of 512 days (+512 days) for the time between February 11, 2007 and July 7, 2008 to the extent that this time period does not overlap with other adjustments.

13. Of those 512 days, 10 days overlap due to the delays noted in Sections 7-9 above.

Moreover, the Applicants filed a notice of appeal on April 13, 2007 and an Office Action was issued on September 25, 2007, for a further deduction of 165 days. This results in a net extension of 337 days (+337 days).

14. The Applicant therefore believes the correct patent term adjustment should be calculated as 425 days (113 days – 4 days– 5 days – 3 days – 1 day – 6 days – 2 days – 4 days + 337 days).

15. In the event the Applicant's calculation is incorrect and the Applicant is entitled to a patent term adjustment greater than 425 days, the Applicant respectfully requests that the Office determine and issue the proper patent term adjustment entitled to the Applicant.

Therefore, the Applicant respectfully requests that the Office reconsider the determination of patent term adjustment and find that the Applicant is entitled to a patent term adjustment in the amount of 425 days.


If any issues arise, the Applicant respectfully invites the Office to contact the undersigned at the telephone number indicated below or at *wmunck@munckcarter.com*.

The Applicant has included the appropriate fee for this petition. The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK CARTER, LLP

Date: March 1, 2010



William A. Munck
Registration No. 39,308

P. O. Drawer 800889
Dallas, Texas 75380
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: wmunck@munckcarter.com